

**ADOPTED REGULATION OF THE STATE BOARD OF
PROFESSIONAL ENGINEERS AND LAND SURVEYORS**

LCB File No. R078-09

Effective October 15, 2010

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§1, 2 and 4-6, NRS 625.140; §3, NRS 625.140, 625.177 and 625.179.

A REGULATION relating to professions; requiring persons who are not natural persons to register with the State Board of Professional Engineers and Land Surveyors before engaging in the practice of professional engineering and the practice of land surveying; and providing other matters properly relating thereto.

Section 1. Chapter 625 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. *“Firm” means a person, other than a natural person, including, without limitation, a partnership, corporation or other business entity, that engages in or offers to engage in the practice of professional engineering or the practice of land surveying in this State.*

Sec. 3. 1. *A firm must:*

(a) File an application for registration with the Board on a form provided by the Board;
and

(b) Pay a fee of \$50,

↪ before engaging in or offering to engage in the practice of professional engineering or the practice of land surveying in this State.

2. A firm shall not engage in the practice of professional engineering or the practice of land surveying unless a professional engineer or professional land surveyor, as applicable, is in responsible charge of the work provided by the firm in each branch office of the firm. The licensee designated pursuant to this subsection to be in responsible charge of the work provided by the firm is not required to be a principal of the firm.

3. A firm must file an application described in subsection 1 with the Board for each branch office of the firm located in this State. Each application must include:

- (a) The name of the firm;*
- (b) A list of the principals of the firm;*
- (c) The address of the firm;*
- (d) The address of the branch office of the firm to which the application pertains;*
- (e) The license number of the licensee who is in responsible charge of the work provided by the firm at the branch office to which the application pertains; and*
- (f) A description of the services that are offered by the firm.*

4. A firm shall notify the Board, in writing, within 30 days after any change in:

- (a) The name of the firm;*
- (b) A principal of the firm;*
- (c) The address of the firm, including, a change in the address of a branch office of the firm;*
- (d) The licensee who is in responsible charge of the work provided by the firm at a specific branch office of the firm; or*
- (e) The services that are offered by the firm.*

5. Each year within 30 days after the anniversary date of a firm's registration with the Board, the firm must file an application for renewal of its registration, accompanied by a fee of \$50.

Sec. 4. NAC 625.010 is hereby amended to read as follows:

625.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 625.011 to 625.019, inclusive, *and section 2 of this regulation* have the meanings ascribed to them in those sections.

Sec. 5. NAC 625.620 is hereby amended to read as follows:

625.620 Any licensee or firm ~~[, partnership, corporation, joint stock association or other business organization engaged in the practice of engineering or land surveying as defined by chapter 625 of NRS]~~ which conducts business under an assumed or fictitious name or designation and which does not show the real name of the ~~[organization]~~ *firm* or names of the persons engaged or interested in the business shall file with the Board a certificate of fictitious name in the form required by chapter 602 of NRS within 30 days after the first use of the name or designation.

Sec. 6. NAC 625.630 is hereby amended to read as follows:

625.630 1. A licensee or firm ~~[, partnership, corporation, joint stock association or other organization]~~ shall not advertise for or offer to perform engineering in a discipline of professional engineering in which the licensee or a member of the ~~[organization]~~ *firm* has not been licensed by the Board, unless the licensee or ~~[organization]~~ *firm* has a full-time partner, associate, officer or employee licensed to practice in that discipline of engineering.

2. Licensees and ~~[organizations]~~ *firms* shall not advertise for work in a discipline of engineering in which they are not licensed and thereafter seek to employ persons qualified to do

the work only after the work has been obtained. Professional engineers and ~~organizations~~ *firms* may solicit work only in those disciplines of engineering in which they are licensed.

3. As used in this section, “full-time employee” means a person who:

(a) Devotes more than one-half of his *or her* working time in the actual employ of the licensee or ~~organization~~ *firm* and not merely as a consultant; and

(b) Is physically present in the offices of his *or her* employer during normal business hours unless his *or her* professional duties require him *or her* to be elsewhere.

INFORMATIONAL STATEMENT TO LEGISLATIVE COUNSEL BUREAU

NRS 233B.066

Amendments to NAC 625.010, NAC 625.620 and NAC 625.630

LCB File No. R078-09

The Nevada State Board of Professional Engineers and Land Surveyors (the "State Board") presents this informational statement to the Legislative Counsel Bureau in accordance with NRS 233B.066 and presents the required information with respect to the State Board's adoption of amendments to Regulations NAC 625.010, NAC 625.620 and NAC 625.630 pursuant to NRS 625.140. This Informational Statement is submitted together with additional Informational Statements of the State Board concerning the adoption of amendments to other existing Regulations.

1. A description of how public comment was solicited, a summary of the public response, and an explanation how other interested persons may obtain a copy of the summary.

The amendments to NAC 625.010, NAC 625.620 and NAC 625.630 were initially adopted by the State Board as temporary Regulations.

Copies of the Temporary Regulations, Notices of Workshops and Notices of Intent to Act Upon the Regulations were sent via U.S. Mail and e-mail to persons who are known to have an interest in the temporary amendments to Regulations of the State Board as well as to those persons who had specifically requested such notice. Those documents were also made available at the website of the State Board at <http://www.boe.state.nv.us> and at the office of the State Board located at 1755 E. Plumb Lane, Suite 135, Reno, NV 89502. Copies of the temporary Regulations were e-mailed to the main public libraries in all Nevada counties and were posted at the following locations:

Nevada State Board of Professional
Engineers and Land Surveyors
1755 East Plumb Lane
Suite 135
Reno, Nevada 89502

Nevada State Board of Professional
Engineers and Land Surveyors
7251 West Lake Mead Blvd.
Suite 520
Las Vegas, Nevada 89128

City of Reno, Engineering Division
450 Sinclair, 3rd Floor
Reno, Nevada 89501

City of Sparks, Engineering Division
431 Prater Way
Sparks, Nevada 89431

Clark County Building Department
500 S. Grand Central Parkway
Las Vegas, Nevada 89155-3530

City of Las Vegas, Building and Safety
400 E. Stewart Street
Las Vegas, Nevada 89101

Elko County Recorder
571 Idaho Street
Elko, Nevada 89801

Public comment was solicited by holding two (2) workshops on the temporary amendments to the Regulations. The first workshop was held on April 14, 2009 at the State Board's office at 1755 E. Plumb Lane, Suite 135, in Reno, Nevada. The second workshop was held on April 16, 2009 at the State Board's office at 7251 W. Lake Mead Blvd., Suite 520, Las Vegas, Nevada. The comments received at the workshops were discussed at the May 14, 2009 public meeting of the State Board held at the State Board's office at 7251 W. Lake Mead Blvd., Suite 520, Las Vegas, Nevada. Thereafter, on or about May 21, 2009, the Executive Director of the State Board issued Notices of Intent to Act upon a Regulation. On June 24, 2009, a public hearing was held at the State Board's office at 1755 E. Plumb Lane, Suite 135, in Reno, Nevada, at which time the State Board adopted the temporary Regulations.

Substantial public comment was received on the proposed temporary amendments to Regulations NAC 625.010, NAC 625.620 and NAC 625.630. A summary of the discussion of the temporary amendments at the May 14, 2009 State Board meeting and at the June 24, 2009 hearing at which the temporary amendments were adopted may be obtained by calling the State Board at (772) 688-1231 or by writing to the State Board at 1755 E. Plumb Lane, Suite 135, Reno, Nevada 89502, or by e-mailing the State Board at board@boe.state.nv.us.

The State Board then moved to make permanent the temporary amendments to the regulations. Public comment was solicited by holding two (2) public hearings and two (2) workshops on the permanent amendments to the regulations. Notices of the workshops and the public hearings were posted at the locations referenced above. In addition, the notices were posted on the State Board's website, were mailed to those persons who had requested notice of amendments to Regulations of the State Board and were e-mailed to the main public libraries in all Nevada counties. The workshops were held on September 15, 2009 and June 17, 2010. The public hearings were held on October 22, 2009 and July 15, 2010.

As noted above, the State Board moved to make the temporary amendments to NAC 625.010, NAC 625.620 and NAC 625.630 permanent. No adverse comments were received at the workshops held on September 15, 2009 and June 17, 2010. Additionally, no adverse comments were received at the hearings held on October 22, 2009 and July 15, 2010. A summary of the State Board's discussion of the permanent amendments to NAC 625.010, NAC 625.620 and NAC 625.630 at the October 22, 2009 and July 15, 2010 hearings may be obtained by calling the State Board at (772) 688-1231, by writing to the State Board at 1755 E. Plumb Lane, Suite 135, Reno, Nevada 89502, or by e-mailing the State Board at board@boe.state.nv.us.

2. The number of persons who:

- (a) attended each workshop:** April 14, 2009 - 13; April 16, 2009 - 19; September 15, 2009 -5; June 17, 2010 - 10
- (b) testified at each workshop:** April 14, 2009 - 9; April 16, 2009 - 10; September 15, 2009 -2; June 17, 2010 - 0
- (c) submitted written comments to the State Board concerning the temporary amendments to the Regulations referenced in this Informational Statement**

- 2;

- (d) attended the State Board's meeting May 14, 2009 - 14;
- (e) attended the State Board's hearing on June 24, 2009 - 16;
- (f) attended the State Board's hearing on October 22, 2009 - 9;
- (g) attended the State Board's hearing on July 15, 2010 - 12;
- (h) submitted to the State Board written comments at the State Board's May 14, 2009 meeting, the June 24, 2009 hearing, the October 22, 2009 hearing or the July 15, 2010 hearing concerning the amendments to the Regulations referenced in this Informational Statement - 0. No written comments were submitted.

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses and members of the engineering and land surveying professions as outlined in number 1 above. The State Board received several comments from the engineering and land surveying professions. A copy of the State Board's minutes concerning the amendments to the Regulations and the subsequent adoption of the amended Regulations can be obtained by calling the Nevada State Board of Professional Engineers and Land Surveyors at (775) 688-1231 or by writing to the State Board at 1755 E. Plumb Lane, Suite 135, Reno, Nevada 89502.

4. If the amendments to the Regulations were adopted without changing any part of the amendments, a summary of the reasons for adopting the amendments to the Regulation without change.

The amendments to the Regulations were drafted by the State Board which subsequently held four (4) workshops and three (3) public hearings concerning the amendments. Additionally, the temporary amendments were discussed at the State Board's May 14, 2009 meeting at the State Board's office at 7251 W. Lake Mead Blvd., Suite 520, Las Vegas, Nevada. The State Board adopted the temporary amendments to NAC 625.010, NAC 625.620 and NAC 625.630 at the public meeting held on June 24, 2009 and gave serious consideration to the changes suggested at both Workshops and at the June 24, 2009 hearing. Several changes were made to the proposed amendments to NAC 625.010, NAC 625.620 and NAC 625.630 before they were adopted as temporary amendments on June 24, 2009.

Many professional land surveyors and professional engineers believed it was inappropriate to require them to register their firms. However, the majority of the State Board believed that firms offering to perform professional land surveying or professional engineering services should be registered by the State Board. See NRS 625.177 and NRS 625.179.

As noted above, the State Board moved to make the temporary amendments to NAC 625.010, NAC 625.620 and NAC 625.630 permanent. No adverse comments were received at the workshops held on September 15, 2009 and June 17, 2010. Additionally, no adverse comments were received at the hearings held on October 22, 2009 and July 15, 2010 at which the amendments to NAC 625.010, NAC 625.620 and NAC 625.630 were adopted.

5. The estimated economic effect of the adopted amendments to the Regulation on the businesses that it is to regulate and on the public. These must be stated separately, and each case must include:

- (a) Both adverse and beneficial effects; and**
- (b) Both immediate and long term effects.**

(a) The amendments are not expected to have either an adverse or a beneficial economic effect upon the regulated professions or on the public. A new section is added to require firms offering to perform professional engineering or professional land surveying services in this state to register with the State Board at a cost of \$50.00 per year. The \$50.00 per year fee is authorized by statute. See NRS 625.177 and NRS 625.179/

(b) There will be no economic effect either immediate or long term on the public or on the engineering or land surveying professions. See item 5(a) above.

6. The estimated cost to the Agency for enforcement of the amended Regulation.

There will be additional cost to the State Board to implement and enforce the registration of firms. The estimated cost to implement and to enforce the new regulation is \$20,000.00 per year over and above the estimated revenue to be received from the firms required to register with the State Board.

7. A description of any Regulations of other state or government agencies that the adopted amendments to Regulations NAC 625.010, NAC 625.620 and NAC 625.630 overlap or duplicate, and a statement explaining why the duplication or overlapping is necessary. If the adopted amendments to the Regulations duplicate a federal regulation, the name of the regulating federal agency.

There are no other state or government agency regulations that the amendments to the Regulations duplicate.

8. If the amendments to the Regulations include provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provision.

There is no federal regulation that regulates the same activity.

9. If the amendments to the Regulations provide for a new fee or increase an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

NRS 625.177 and NRS 625.179 authorize the State Board to charge a fee of \$50.00 to register a firm. The State Board has not previously registered firms. The State Board anticipates it will receive \$50,00.00 in registration fees and will expend more than \$50,000.00 in implementing and enforcing the regulation.

10. Are the amendments to the Regulations likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business? What methods did the agency use in determining the impact of the amendments to the Regulations on a small business?

The State Board determined that the amendments to the Regulations do not impose a direct and significant economic burden upon a small business or restrict the formation, operation or expansion of a small business. In making this determination, the State Board considered that the amendments only impose an annual fee of \$50.00 for registration and that the fee is authorized by statute. The adopted amendments impose no direct or significant burdens on any private businesses.

DATED: This 11th day of August, 2010.

State of Nevada Board of Professional
Engineers and Land Surveyors

By: 
NONI JOHNSON